

REMARKS

Amendments to the Claims

Claims 1-5 have been canceled.

Claim 6 was amended by limiting this claim to the species which are optionally substituted N-phenethyl piperidin-4-yl-3-benzamide derivatives. Support for this amendment is in the specification as originally filed, including original claim 18.

Claim 7 was amended by restricting this claim to the species elected in the previous response to a restriction requirement. Support for this amendment is in the specification as originally filed, including original claim 18.

Claims 9 and 10 have been canceled by this amendment.

Claim 20 was amended by making it depend from claim 6 or 7 rather than claims 1-7 and 9-10. Support for this amendment is in the specification as originally filed, including original claim 20.

Claim 22 was amended by making it depend from claim 6 or 7 rather than claims 1-7 and 9-10. Support for this amendment is in the specification as originally filed, including original claim 22.

Claims 23, 24 and 28 have been canceled by this amendment.

The oath or declaration

The Examiner has alleged that the oath or declaration is defective because it does not specify the application number to which it is directed and does not specify the addresses and citizenship of the inventors.

Applicants respectfully submit that the declaration that was submitted with this application is not defective. A copy of the declaration and ADS is attached as Appendix A for reference purposes. The declaration that was provided accompanied an application that was filed using an application data sheet (ADS). The ADS contained the addresses and citizenship of the inventors as required. The declaration specified that the inventors reviewed and understood the contents of the application to which it was attached. Therefore, Applicants respectfully submit that the declaration was not defective. Reconsideration of the declaration in view of the ADS is respectfully requested.

The 35 U.S.C. §112, second paragraph rejections

Claims 1-7, 9-10, 10-24 and 28 are rejected under 35 U.S.C. §112, second paragraph as allegedly being indefinite due to the presence of the term "C1-C6 cycloalkyl" in the definition of variables R<sup>3</sup> and R<sup>5</sup>. The claims as amended, specify certain species and do not recite the term "C1-C6 cycloalkyl". Applicants respectfully request reconsideration of the claims in view of the amendments, and withdrawal of this rejection.

Claims 1-7, 9-10, 10-24 and 28 are rejected under 35 U.S.C. §112, second paragraph as allegedly being indefinite due to the lack of the methylene moiety within the brackets "( )<sub>n</sub>". The claims as amended, are directed to species and no longer recite structural formula I. Applicants respectfully request reconsideration of the claims in view of the amendments, and withdrawal of this rejection.

Claims 1-17 and 20-29 are rejected under 35 U.S.C. §112, second paragraph as allegedly being indefinite due to the presence of the term "substituted alkyl" or "substituted cycloalkyl" in the definition of variables R<sup>3</sup> and R<sup>5</sup>. The claims as amended, specify certain species and no longer recite the terms "substituted alkyl" or "substituted cycloalkyl". Applicants respectfully request reconsideration of the claims in view of the amendments, and withdrawal of this rejection.

Claims 2-7, 9-10, 20-24 and 29 are rejected under 35 U.S.C. §112, second paragraph as allegedly being indefinite due to the presence of the phrase "preferred relative stereochemistry is trans." The claims, as amended, specify that the relative stereochemistry of the claimed species is trans. Applicants respectfully request reconsideration of the claims in view of the amendments, and withdrawal of this rejection.

Claim 21 is rejected under 35 U.S.C. §112, second paragraph as allegedly being indefinite due to the presence of the phrase "effective amount". Claim 21 has been canceled thereby rendering this objection moot.

Claim 22 is rejected under 35 U.S.C. §112, second paragraph as allegedly being indefinite due to the presence of the phrases "age related cognitive decline" and "eating disorder." Claim 22 has been amended and no longer recites those conditions. Applicants respectfully request reconsideration of this claim in view of the amendments, and withdrawal of this rejection.

Claim 28 is rejected under 35 U.S.C. §112, second paragraph as allegedly being indefinite due to the presence of a phrase regarding radioisotopic abundance of atoms within the compound of formula I. Claim 28 has been canceled thereby rendering this objection moot.

Claims 21 and 23-24 have been rejected under 35 U.S.C. §112, first paragraph as allegedly not being enabled such that one skilled in the art could make or use the invention. Claims 21, 23 and 24 have been canceled, thereby rendering this objection moot.

Claim 22 has been rejected under 35 U.S.C. §112, first paragraph as allegedly not being enabled such that one skilled in the art could make or use the invention. Claim 22, as amended, pertains to a method of treating sexual dysfunction with a compound of formula I. The specification, particularly the detailed description section, provides description of administration of compounds of formula I to a patient in need of therapy. In addition, the specification also provides description of dosage forms and routes of administration of the pharmaceutical compositions of this invention. Applicants respectfully submit that one skilled in the art could readily practice the claimed method of treatment without undue experimentation. For this reason, Applicants respectfully request the Examiner reconsider claim 22, as amended, and withdraw the 35 U.S.C. §112, first paragraph rejection.

The 35 U.S.C. §102(b) rejection

Claims 1-6 and 9 have been rejected as allegedly anticipated by CA 2,309,434 (hereafter '434). Particularly, the Examiner has stated that Examples 2-14, 16 and 18-19 anticipate instant claims 1-6 and 9.

The instant claims, as amended, are directed to optionally substituted N-phenethyl piperidin-4-yl-3-benzamide compounds. Examples 2-14, 16 and 18-19 of '434 are not compounds which have an optionally substituted phenethyl moiety attached to the piperidine nitrogen as in the instantly claimed compounds. '434 in no way discloses or suggests the species as instantly claimed. Thus, Examples 2-14, 16 and 18-19 of '434 and '434 as a whole does not anticipate the instant claims, as amended. For this reason, Applicants respectfully request that the Examiner reconsider the claims as amended, and withdraw the 35 U.S.C. §102(b) rejection.

The 35 U.S.C. §102(e) rejections

Claims 1-6, 10, 20-24 and 28 have been rejected as allegedly anticipated by US 2004/0186135 (hereafter '135). Particularly, the Examiner points to page 27, compound 27, page 43, compound 33, page 46, compound 41 and 43, and page 47, compound 45.

The instant claims, as amended, are directed to optionally substituted N-phenethyl piperidin-4-yl-3-benzamide compounds. Compounds 27, 33, 41, 43 and 45 of '135 are not

compounds which have an optionally substituted phenethyl moiety attached to the piperidine nitrogen as in the instantly claimed compounds. '135 in no way discloses or suggests the species as instantly claimed. Thus, '135 as a whole does not anticipate the instant claims, as amended. For this reason, Applicants respectfully request that the Examiner reconsider the claims as amended, and withdraw the 35 U.S.C. §102(e) rejection.

Claims 1-7, 10 and 20-24 have been rejected as allegedly anticipated by US 2005/0222204 (hereafter '204). Particularly, the Examiner points to page 7, compound II, of '204 and claims 1-9, 11-12.

The instant claims, as amended, are directed to optionally substituted N-phenethyl piperidin-4-yl-3-benzamide compounds. Compound II at page 7 of '204 is not a compound which has an optionally substituted phenethyl moiety attached to the piperidine nitrogen as in the instantly claimed compounds. Instead, compound II of '204 has a n-hexyl group attached to the piperidine nitrogen. Claims 1-9 and 11-12 of '204 are directed to a species in which a 3-hydroxy-3-cyclohexylpropyl group is attached to the piperidine nitrogen of the compound disclosed therein. '204 in no way discloses or suggests the species as instantly claimed. Thus, '204 as a whole does not anticipate the instant claims, as amended. For this reason, Applicants respectfully request that the Examiner reconsider the claims as amended, and withdraw the 35 U.S.C. §102(e) rejection.

The 35 U.S.C. §103(a) rejections

Claims 1-6, 20-24 and 28 have been rejected as allegedly being obvious over US 2004/0186135.

The instant claims, as amended, are directed to optionally substituted N-phenethyl piperidin-4-yl-3-benzamide compounds. The '135 reference does not disclose or suggest the instantly claimed species. The broad claims in '135 could be directed to millions of compounds and none of the examples in the '135 reference teach or suggest an optionally substituted phenethyl moiety attached to the piperidine nitrogen. Applicants respectfully submit that one of ordinary skill in the art, in view of '135 and using ordinary creativity and common sense would not arrive at the instantly claimed species. Applicants respectfully request the Examiner to reconsider the claims, as amended, and withdraw the 35 U.S.C. §103(a) rejection.

Claims 1-7, 9-10, 20-24 and 28 have been rejected as allegedly being obvious over '434 in view of U.S. 4,891,379 (hereafter '379). The Examiner states that modification of the '434 compounds (i.e. the n-hexyl attached to the piperidine nitrogen) with a hydroxyl (as taught by '379) would result in compounds with similar activity.

Applicants respectfully submit that modification of the '434 compounds with a hydroxyl does not provide the instantly claimed species which are N-phenethyl piperidin-4-yl-3-benzamide derivatives. For this reason, Applicants respectfully submit that the instantly claimed species are not obvious in view of the combination of '434 and '379. Applicants respectfully request the Examiner Examiner to reconsider the claims, as amended, and withdraw the 35 U.S.C. §103(a) rejection.

Claims 1-7, 9-10, 20-24 and 28 have been rejected as allegedly being obvious over '204 in view of '135. The Examiner states that modification of the '204 compounds (i.e. the n-hexyl or the 3-hydroxy-3-cyclohexylpropyl attached to the piperidine nitrogen) by modifying the linker chain length would result in compounds with similar activity.

Applicants respectfully submit that modification of the '204 compounds by varying the chain length of the linker does not provide the instantly claimed species which are N-phenethyl piperidin-4-yl-3-benzamide derivatives. For this reason, Applicants respectfully submit that the instantly claimed species are not obvious in view of the combination of '204 and '135. Applicants respectfully request the Examiner Examiner to reconsider the claims, as amended, and withdraw the 35 U.S.C. §103(a) rejection.

#### CONCLUSION

Applicants respectfully request entry of the amendments herein above, and an early and favorable allowance.

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Respectfully submitted,

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